

**ZONING BOARD OF APPEALS  
November 29, 2016  
PUBLIC HEARING**

Charles Marino called the meeting to order at 6:15 P.M. with the following in attendance:

Charles Marino, Chair	Sue Goggin, ZEO
Arlene Schwartz-Regan, Vice-Chair – 6:20 P.M.	Lori Rotella, Assistant ZEO
Basiliza MacCalmon, Secretary – absent	Attorney Fitzpatrick
Edward Rachuba	Public - 2
Kimberly Kenneson	
David Cronin, Alternate	

1. Charles Marino called the meeting to order at 6:12 p.m. He took attendance and noted there was a quorum. Charles made David Cronin a regular voting member in place of Basiliza MacCalmon.

Meeting recessed at 6:12 p.m.

Meeting reconvened at 6:14 p.m.

2. Approval of the October 25, 2016 minutes.

**VOTED: Unanimously** on a motion by David Cronin and seconded by Edward Rachuba to approve the October 25, 2016 meeting minutes.

3. **6:15 P.M. PUBLIC HEARING APPEAL #1991** – Applicant will seek approval for a certificate of location for automobile dealer's or repairer's license in accordance with Connecticut General Statutes 16-55, 928 Waterbury Road, Applicant: Gerardo Ayala

Charles Marino read the legal notice for Appeal #1991 into the record which was published in the November 18, 2016 edition of the Republican American and the November 25, 2016 edition of the Citizen's News. Gerardo Ayala explained that he would like to open a used auto sales and repair dealership at 928 Waterbury Road. Charles Marino explained that this type of appeal used to go before the Zoning Board of Appeals years ago and then it was changed to go before the Zoning Commission in towns with 20,000 residents or more. The certificate of location is now back before the Zoning Board of Appeals, no matter how many residents are in the town. Susan Goggin noted that the property is located in a B-2 zone and the most recent use of the property was for auto sales and repairs, which are allowed in that zone per our zoning regulations. Susan also explained that the applicant submitted a site plan which was previously submitted for a used car and repair dealership. She also stated that the Land Use Office has no concerns with this application.

**VOTED: Unanimously** on a motion by Edward Rachuba and seconded by Kimberly Kenneson to grant Appeal #1991.

Meeting recessed at 6:21 p.m.  
Meeting reconvened at 6:25 p.m.

**6:15 P.M. CONTINUED PUBLIC HEARING APPEAL #1990** – Applicant will seek a variance of Section 24.1, Schedule B, #1 and Section 24.1, Schedule B, #5.3 of the Naugatuck Zoning Regulations for a side yard setback and for lot area, 972 New Haven Road, Applicant: 972 New Haven Rd, LLC

Susan Goggin noted that an email came in from a neighbor in support of Mr. DaSilva's application for a zoning variance. Kimberly Kenneson read an email from Arun Kundra dated November 3, 2016 into the record. Attorney Fitzpatrick explained that this public hearing was continued from the previous month. He stated that the facts of this appeal were given to him by Susan Goggin, Zoning Enforcement Officer. He went over the facts with the commission. The property was originally zoned B-2 or light commercial. It was changed to PDD-1 for the Celentano project back in the 1970's. Attorney Fitzpatrick gave a history of the different zones and what type of structures were located all along New Haven Road. In 2007 the New Haven Road Design District (NHRDD) was created to consolidate all of the zones located along New Haven Road. The new zone allowed for mixed use development. Single family homes were allowed as well as buildings with commercial uses on the first floor and residential on the second floor. The zone was created to promote mixed use and growth along the arterial corridors, to put people where the businesses are located. After explaining the history, Attorney Fitzpatrick explained that the applicant falls under CGS 8-13a. He read the 8-13a statute into the record. Since no enforcement action was taken against this owner or any previous owners for 3 years, the structure is such deemed a non-conforming structure. This structure now exists as a right because no action was taken within the past 3 years, which is why the application for this appeal was not necessary. Since the applicant is not adding on to enlarge the structure, there is no need to go before the Zoning Board of Appeals. It was noted that the applicant will have to use commercial on the first floor of the garage and residential on the second floor. Attorney Fitzpatrick explained the history of the 8-13a statute and why it came to be. He stated that it is similar to the statute of limitations. Kimberly Kenneson stated that she spoke with the building department and they need a signoff from the Land Use office before issuing a building permit. Attorney Fitzpatrick explained that the building department only needs to know if the zoning office finds the location or use of the structure in compliance with the zoning regulations. Charles Marino asked for any comments from the public, there was none. Charles closed the public hearing.

**VOTED: Unanimously** on a motion by Edward Rachuba and seconded by Kimberly Kenneson the applicant does not require a variance pursuant to CGS 8-13a for property located at 972 New Haven Road, Applicant: 972 New Haven Rd, LLC.

Meeting recessed at 6:56 p.m.  
Meeting reconvened at 7:01 p.m.

**6:30 P.M. PUBLIC HEARING APPEAL #1992** – Applicant will seek to appeal the decision of the ZEO in accordance with Section 51.2.1, of the Naugatuck Zoning Regulations, 630 Rubber Avenue, Applicant: Lawrence Albaitis

Charles Marino noted for the record that payment was received and the certified letters were sent out. Charles read the legal notice for Appeal #1992 into the record which was published in the November 18, 2016 edition of the Republican American and the November 25, 2016 edition of the Citizen's News. He also read into the record the letter that was sent out to the abutters located within 55 feet of 630 Rubber Avenue. Lawrence Albaitis, 630 Rubber Avenue noted that he has contacted Susan Goggin many times to request an extension for this public hearing in order for him to collect all of the backup he needs for the commissioners. He stated he has to go back through 55 years worth of photographs, paperwork and documentation that he has researched so that he can clarify for the commission what is going on at his property. Mr. Albaitis explained that he has owned this property for 55 years and has run his construction business out of this location during that time. Kimberly Kenneson questioned Mr. Albaitis about the unregistered vehicles, which was the reason for this appeal. He explained that one of the pickup trucks needs a new motor but due to a total crash in front of the Portuguese Club approximately a month ago, he was not able to work on the truck. He did state the motor was at 88 Chestnut Street. The second vehicle on the property he said he needs to maintain his property due to extensive flooding problems coming off of Andrew Mountain. One of the backhoes was removed by Daddio's. Mr. Albaitis stated he accommodated any request that Susan Goggin made of him. Kim questioned if the area around him was all residential. He stated he is located on Rubber Avenue but there is a residential neighbor behind him. His property goes back 300 feet. He stated that he was allowed to keep all of his heavy equipment and machinery on his property for the past 55 years, for his entire career. The previous owner, Emil Krampetz, also had a construction business located at this address. Kim questioned how all of the vehicles and equipment will stop the runoff that Mr. Albaitis stated is coming off of Andrew Mountain. Mr. Albaitis stated he has all of the documentation needed to prove that he needs to keep his equipment and vehicles to maintain his property. He will have that information for the December meeting. Attorney Fitzpatrick recommended that the public hearing be continued until the December 20, 2016 meeting. Charles Marino stated for the record that he did go to the property to inspect but did not get out of his vehicle because it was getting dark. Dave Cronin and Arlene Schwartz-Regan also went to the property to inspect prior to the meeting. Mr. Albaitis gave a lengthy description of all of the work he has previously done in the Borough of Naugatuck over the span of his construction career. Charles Marino asked for any public comments. Sue Ferrara, 19 Woodruff Avenue, stated that the backhoe was gone for 6 months, but now it is back on the property. The other machine is sunk into the mud and has not moved for the six years that she has lived there. One of the vehicles has broken windows and animals live in it. All of the vehicles have been there for the 6 years that she has lived there. She explained that her house is on Woodruff Avenue and her kitchen window overlooks Mr. Albaitis's property. She stated that she has no complaints with someone making a living but she has a problem with the unusable equipment and vehicles on the property. She also mentioned that there are large piles of metal that are not shown in the pictures. The pictures were taken on July 18, 2014. She

also explained that she has been trying for years to get this taken care of. She has been to town hall many times to get a hearing and nothing has been done. Attorney Fitzpatrick stated, for the record, in response to the Ferrara's coming into town hall before, the previous ZEO, Steve Macary, sent a cease & desist out in 2014 regarding debris and junk on the property. There was a notation of previous fines. It was not enforced by the Borough. Attorney Fitzpatrick noted the cease & desist was sent to Debra Albaitis, 630 Rubber Avenue, Naugatuck, CT 06770. Kimberly asked Mr. Albaitis if he was aware that there was a previous cease & desist on the property. He stated that he did not know that. He also said he had a problem with Mr. Macary (the previous ZEO) whom, he stated, threatened him, pushed him around and has thrown punches at him many times in the past. Kimberly stated that it looks like a lot of the same equipment in the previous pictures from the cease & desist issued by Steve Macary are in the new cease & desist pictures. Mr. Albaitis stated he was looking for a grandfather clause which Attorney Fitzpatrick explained in Appeal #1990. Kimberly explained to the applicant that what Attorney Fitzpatrick explained in Appeal #1990 was CGS 8-13a which pertains to structures, not junk vehicles and machinery. Attorney Fitzpatrick requested that staff take new photos of the machines and vehicles. Kimberly questioned what zone Mr. Albaitis's property was located in. It was explained that his property is located within the Rubber Avenue Design District (RADD). Attorney Fitzpatrick explained that there is a separate regulation when it comes to storing construction equipment, materials and debris. He also explained to the commissioners that this appeal was not for a variance but an appeal to overturn the Zoning Enforcements Officer's decision. Mr. Albaitis stated that without this equipment, his property would be flooded out. He stated that he would be closing down his business in about another 4-5 years but that he will need his equipment until then. It was explained to Mr. Albaitis that the Zoning Board of Appeals deals with unregistered vehicles and not water problems that he is having. Kimberly explained to Mr. Albaitis that she did not go to the property because she was under the impression that he was not going to be present at tonight's meeting. She stated she will schedule a time to come out to visit the property before the December meeting. Ed Rachuba stated that Mr. Albaitis has two different problems going on that are related. This board can only deal with the unregistered vehicles and not the water issue. Ed will also schedule a time to see the property. Mr. Albaitis also stated that the town sent him tax bills for the unregistered machinery and vehicles and he paid them. Attorney Fitzpatrick explained that the cease & desist was based on Naugatuck Zoning Regulation 23.3.2 regarding outdoor storage of construction equipment on a property. He also mentioned that there appears to be a series of letters requesting a cease and desist and photos going back at least three years. At this point, the proof of burden is on the applicant to show that he has legal protection of the construction equipment on his property. Charles questioned that if the equipment and vehicles were registered, would they be allowed to stay on the property. Attorney Fitzpatrick clarified that the zoning office governs uses on properties. If the equipment is not allowed in this zone, then the applicant needs to show proof of protection to grandfather him in.

**VOTED: Unanimously** on a motion by Ed Rachuba and seconded by Kimberly Kenneson to table Appeal #1992 until December's meeting.

4. There were no additional items added to the agenda.
5. **VOTED:** Unanimously on a motion by Kimberly Kenneson and seconded by David Cronin to **ADJOURN** the meeting at 8:05 P.M.

RESPECTFULLY SUBMITTED:

Basiliza MacCalmon, Secretary/Ir